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VETERANS' AFFAIRS
HEALTH, EDUCATION, LABOR,
AND PENSIONS
JOINT ECONOMIC COMMITTEE

October 26, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Barr,

On August 3, 2020, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) sent a cease and desist letter to the manufacturer of a firearm called the Honey Badger Pistol.¹ In that letter, ATF asserts that the firearm, along with two others produced by the manufacturer, was a short barreled rifle, as defined in the Gun Control Act of 1968 (GCA).² The ATF's cease and desist letter provides little more than a passing sentence indicating that the firearm was reviewed by the Firearms and Ammunition Technology Division which determined the classification. I write to express concern that ATF's letter creates undue confusion for manufactures and owners of firearms and to ask that the Department of Justice provide additional guidance for how this determination is intended to be made.

The ATF's recent actions surrounding the Honey Badger Pistol risk creating confusion through the uneven application of firearms classifications. Contrary to the ATF's classification, the Honey Badger Pistol, as displayed on the manufacturer's website, includes a clear statement of intent by the manufacturer that the firearm is a pistol. Further, the firearm is described to include a pistol stabilizing brace and rifled barrel.³ Although ATF provides little detail in its cease and desist letter, it appears ATF believes the brace and the rifled barrel necessitates a different classification.

ATF's position in the case of the Honey Badger appears to be at odds with positions taken in the recent past, particularly on the issue of pistol stabilizing braces. In a March 2017 letter to SB Tactical, who makes the brace for the Honey Badger Pistol, ATF appeared to distinguish pistol stabilizing braces from shoulder mounts. ATF's letter stated, "With respect to stabilizing braces, ATF has concluded that attaching the brace to a handgun as a forearm brace

¹ Letter from Kelly Brady, Special Agent in Charge, Boston Field Division, Bureau of Alcohol, Tobacco, Firearms and Explosives, to Q, LLC on Aug. 3, 2020, available at https://gunowners.org/wp-content/uploads/2020/10/Q_LLC_6_02_02814_Cease_Desist_Letter.pdf.

² 18 USC ch. 44.

³ Honey Badger Pistol, Collections, Live Q or Die <https://www.liveqordie.com/products/honey-badger-pistol/>.

does not “make” a short-barreled rifle...”⁴ ATF further noted that “incidental, sporadic, and situation ‘use’” of these stabilizing braces at or near the shoulder would not constitute a short-barreled rifle definition under ATF’s interpretation of the GCA or its historical enforcement.⁵ Based on this historical precedent, there appears to be no rationale supporting ATF’s position that the Honey Badger Pistol and related platforms should be subjected to the additional restrictions placed on firearms under the GCA.

ATF’s apparent inconsistency and lack of clear rationale when it comes to the Honey Badger Pistol has placed firearms manufactures and millions of law abiding gun owners into a state of legal limbo. Firearms that ATF had previously appeared to deem not regulated under the GCA now appear to have been arbitrarily placed in this more onerous category. As a longtime proponent and defender of American’s Second Amendment rights, including through my legislation, the Gun Owner Privacy Act, I find ATF’s recent actions particularly troubling. Enforcement of firearms rules require clear and well communicated reasoning, and consistent application to ensure the protection of Americans’ vital Second Amendment rights. I ask, therefore, that you work with ATF to remedy this unfortunate and inconsistent approach to our nation’s guns laws.

Thank you,

A handwritten signature in blue ink, appearing to read 'Kelly Loeffler', with a long horizontal flourish extending to the right.

Kelly Loeffler
United States Senator

⁴ Letter from Marvin G Richardson, Assistant Director, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms and Explosives, to Mark Barnes, Outside Counsel to SB Tactical, LLC on Mar. 21, 2017, available at <https://vpc.org/wp-content/uploads/2019/08/Pistol-brace-ATF-letter-March-21-2017.pdf>.

⁵ *Id.*